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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,405	01/04/2006	Artur Schworer	3450	4557

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EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3637

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,405	Applicant(s) SCHWORER, ARTUR	
	Examiner MICHAEL SAFAVI	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11,13,14,16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11,13,14,16 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11, 13, 14, 16, and 19-24 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear to have originally disclosed “spaced apart parallel linear grooves disposed in said wedge”, (**claim 20**) or “each wedge having spaced apart parallel linear grooves”, (**claim 23**). The specification does not appear to have originally disclosed “the wedge of each devices having unattached free ends enabling insertion of each wedge through corresponding claws openings”, (**claim 23**) or “each wedge has unattached free ends enabling insertion of the wedge through the claw openings”, (**claim 24**).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16, lines 2-3, “the turnbuckle device” lacks antecedent basis within the claim. It is therefore, not clear as to what “the turnbuckle device” refers. Further, claim 16 recites “turnbuckle device” when it does not appear that the instant disclosure presents any turnbuckle device. The disclosure does not appear to set forth “a link or sleeve with a swivel at one end and an internal screw thread at the other, or with an internal screw thread at each end, used as a means of uniting or coupling, and of tightening, two parts, as the ends of two rods”, *Random House Unabridged Dictionary*. Therefore, it is not clear as to how the “turnbuckle device” serves to operate within the invention of claims 10-19.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 20, 11, 16, 19, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Application 0552621 (EP ‘621). EP ‘621

discloses, Figs. 1 and 2, concrete shell elements 16, 17; at least one device 2/3 for

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clamping the concrete shell elements to one another, the devices having spaced apart opposing claws 14, 15 displaceable toward one another in a clamping direction, the claws being configured for guiding one another for enabling the displacement toward one another; teeth, (col. 2, line 30), disposed on one of the claws, said teeth being slanted at an angle with respect to the clamping direction; a wedge 9 disposed through claw openings 11, (beginning and ending), for causing displacement of the claws upon movement of the wedge within the openings in a wedge guiding direction said guiding direction being at an angle less than 90° with respect to said clamping direction, (Fig. 2 and col. 2, lines 37-39); spaced apart parallel linear grooves, (shown where lead line of 9 touches the wedge), disposed in said wedge, (col. 2, lines 30-32), for engaging said teeth for causing the displacement of the claws upon movement of the wedge with the openings. Wedge 9 can be seen as having a constant cross-section, as along 9. Wedge 9 can be seen as having free ends, (as at either end), that enable insertion of the wedge through the respective claw openings.

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by German Offenlegungsschrift DE 3545273 (DE '273). DE '273 discloses, Figs. 1, 2, 4 and 7 for example, concrete shell elements 1, 1; at least one device 11 for clamping the concrete shell elements to one another, the devices having spaced apart opposing claws 12, 13 displaceable toward one another in a clamping direction, the claws being configured for guiding one another for enabling the displacement toward one another; teeth 24 disposed on one of the claws, said teeth being slanted at an angle with respect

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to the clamping direction; a wedge 32 or 41 or 45 disposed through claw openings 30 for causing displacement of the claws upon movement of the wedge within the openings in a wedge guiding direction said guiding direction being at an angle with respect to said clamping direction; grooves 35 disposed in said wedge for engaging said teeth for causing the displacement of the claws upon movement of the wedge with the openings. The wedges of the DE '273 device are "positioned inclined with respect to the straight line and at an angle less than 90° with respect to the clamping direction" by virtue of at least a portion of the wedge 45 inclined as can be seen in Fig. 7. Wedge 41 or 45 can be seen as having free ends, (as at either end), that enable insertion of the wedge through the respective claw openings.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-23 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over European Patent Application 0552621 (EP '621).

Examiner believes that EP '621 has "a plurality of the devices" or "multiple mounting positions...the mounting positions being spaced apart from one another and aligned on a straight line". However, to have provided the concrete form of EP '621 with

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any number of a plurality of “devices” along a pair of adjacent forms 16, 17, thus accounting for any given height of form that may be utilized at the time, would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application 0552621 (EP ‘621).

Forming the EP ‘621 wedge 9 at an angle of between 40 degrees and 85 degrees including at approximately 45 degrees with the clamping direction of the claws, thus allowing easier access to the EP ‘621 wedge device, would have been obvious to one having ordinary skill in the art at the time the invention was made. See Fig. 3 of EP ‘621 for example.

Response to Arguments

Applicant's arguments filed March 04, 2010 have been fully considered but they are not persuasive. The wedge 9 of EP ‘621 does possess free ends thus allowing the wedge 9 of EP ‘621 to translate. Further, the wedge of EP ‘621 is “inclined at an angle less than 90° with respect to the clamping direction” as well as being “inclined with respect to the straight line”. The “straight line” for example, going into the paper of Fig. 2 with the wedge 9 inclined with respect thereto. Likewise, the wedge 9 can be seen as “inclined at an angle...with respect to the clamping direction”, the clamping direction being for example, along a line from 22 to 23.

As for Applicant's argument against DE ‘273, as set forth in the above rejection involving DE ‘273 the wedge of DE ‘273 is “positioned inclined with respect to the

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straight line and at an angle less than 90° with respect to the clamping direction” by virtue of at least a portion of the wedge 45 inclined as can be seen in Fig. 7.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL SAFAVI whose telephone number is (571)272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
May 28, 2010